

#### § 2093.2-4

Application made in accordance with and subject to the provisions and reservations of the Act of June 22, 1910 (36 Stat. 583).

(b) *Hearing.* Except in the case of those who present applications under section 2 of the Act (36 Stat. 584; 30 U.S.C. 84), the authorized officer will advise any person presenting a nonmineral application or filing for lands classified as coal lands that he will be allowed 30 days in which to submit evidence, preferably the statements of experts or practical miners, that the land is in fact not coal in character, together with an application that the same be reclassified, and that in the event of failure to furnish said evidence within the time specified the application will be rejected. If upon the showing made, and such other inquiry as may be deemed proper, the land is classified as agricultural land, the nonmineral application, in the absence of other objections, will be allowed. If reclassification be denied, the applicant may, within 30 days from receipt of notice, apply for a hearing, at which he may be afforded an opportunity for showing that the classification is improper, in which event he must assume the burden of proof. If he should fail to apply for a hearing within the time allowed, his application to enter or file will be finally rejected. The rejection of such application, however, does not preclude the person from filing another application pursuant to section 2 of the Act.

#### § 2093.2-4 Patent with reservation of coal deposits; disposal of coal deposits.

There will be incorporated in patents issued to nonmineral claimants under this Act the following:

Excepting and reserving, however, to the United States all the coal in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine, and remove the coal from the same upon compliance with the conditions and subject to the provisions and limitations of the Act of June 22, 1910 (36 Stat. 583).

#### 43 CFR Ch. II (10-1-96 Edition)

#### § 2093.3 Agriculture entry of lands withdrawn, classified or valuable for minerals.

##### § 2093.3-1 Acts of July 17, 1914, and March 4, 1933.

(a) Section 1 of the Act of July 17, 1914 (38 Stat. 509; 30 U.S.C. 121), as amended, authorizes the appropriation, location, selection, entry or purchase under the nonmineral land laws of the United States, if otherwise available, of lands withdrawn or classified as phosphate, nitrate, potash, oil, gas, or asphaltic minerals, and sodium and sulphur under 30 U.S.C. 124, or which are valuable for such deposits, whenever such lands are sought with a view of obtaining or passing title with a reservation to the United States of the deposits on account of which the lands were withdrawn, classified, or reported as valuable, together with the right to prospect for, mine, and remove the same. Any form of appropriation under the proper applicable nonmineral land laws is authorized, with a reservation of the minerals as specified, to the same extent as if no withdrawal or classification had been made.

(b) The term *person* used in this act will be interpreted as covering a State (see *ex parte*, Utah, 38 L.D. 245), or other corporation, or an association when duly qualified.

(c) Under the proviso in section 2 of the Act (38 Stat. 509; 30 U.S.C. 122) applications for land, either withdrawn or classified, may be presented with a view of proving that the lands applied for, if withdrawn, are not of the character intended to be included in the withdrawal, or, if classified, of disproving the classification and securing patent free from reservations; also, claimants for lands withdrawn or classified for the specified minerals subsequent to location, selection, entry, or purchase have the privilege of showing at any time before final entry, purchase, or approval of selection or location that the lands sought are in fact nonmineral in character.